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8 UNITED STATES BANKRUPTCY COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION
11

12 In Re:	)	No. 21-50028 SLJ 7
)	
13 Evander Frank Kane,	)	Chapter 7
)	
14)	
	)	Reply by Creditor
15 Debtor,	)	Professional Bank
	)	in Support of the Motion by
16	)	Creditor Zions Bancorporation
	)	to Convert the Case to
17	)	Chapter 11 and to Appoint a
	)	Chapter 11 Trustee
18)	
)	
19	)	Date: 3/30/21
)	Time: 11:00 a.m.
20)	Place: Courtroom 9
)	San Jose, California
21)	[Tele/Video Conference]

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23 I

24 INTRODUCTION

25 Creditor Professional Bank hereby submits this Reply in
26 Support of the Motion by Creditor Zions Bancorporation to Convert
27 the Case to Chapter 11 and to Appoint a Chapter 11 Trustee.
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Reply by Creditor Professional Bank in Support of the Motion by Creditor
Zions Bancorporation to Convert the Case to Chapter 11 and to Appoint a
Chapter 11 Trustee

II

PUTTING ASIDE ALL THE RHETORIC, KANE
REALISTICALLY IS MAKING \$7,000,000 PER YEAR
(LOOKING ONLY AT COMPENSATION AND NOT EVEN
CONSIDERING THINGS LIKE MONEY FROM
ENDORSEMENTS, ADVERTISING, ETC.) BECAUSE HE HAS
A 7 YEAR CONTRACT FOR \$49 MILLION OF A
VIRTUALLY GUARANTEED ACCOUNT RECEIVABLE

Putting aside all the rhetoric, Kane realistically is making \$7,000,000 per year (looking only at compensation and not even considering things like money from endorsements, advertising, etc.) because he has a 7-year contract for \$49 million of a virtually guaranteed account receivable.

The opposition papers by Kane make various arguments about how he is not really receiving a full \$7 million per year for the next four years after deductions, etc. However, Kane does have a contract to receive \$49 million per year for 7 years, and he has four years left.

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1 III

2 THERE MIGHT BE SOME REDUCTIONS BASED ON FEWER
3 HOCKEY GAMES PLAYED IN 2021 DUE TO COVID-19,
4 BUT THOSE REDUCTIONS ARE MADE UP NEXT YEAR AND
5 THE YEAR AFTER THAT, SO THE REDUCTIONS ARE NOT
6 "LOST" AS KANE'S OPPOSITION ARGUES, BUT ARE
7 SIMPLY DELAYED AND DEFERRED, SO IT IS STILL \$49
8 MILLION OVER 7 YEARS, AND KANE IS IN YEAR 3 OF
9 THE 7 YEAR CONTRACT

10 There might be some reductions based on fewer hockey games
11 played in 2021 due to COVID-19, but those reductions are made up
12 next year and the year after that, so the reductions are not "lost"
13 as Kane's opposition argues, but are simply delayed and deferred,
14 so it is still \$49 million over 7 years, and Kane is in year 3 of
15 the 7-year contract.

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IV

KANE BORROWED \$15.1 MILLION A MERE 18 MONTHS
BEFORE DECLARING BANKRUPTCY, HE DEFAULTED ON
THOSE LOAN PAYMENTS WITHIN A MERE SEVERAL
MONTHS INCLUDING BY ILLEGALLY STOPPING THE
AUTOMATIC PAYMENTS FROM THE SAN JOSE SHARKS,
THE LOANS WERE TO BE REPAID THROUGH THE \$29
MILLION REMAINING ON KANE'S \$49 MILLION
CONTRACT AS A PROFESSIONAL HOCKEY PLAYER, AND
NOW KANE CONTENDS THAT HE DOES NOT INTEND TO
REPAY ANY OF THOSE LOANS AND THAT HIS
RECEIVABLE FROM THE SAN JOSE SHARKS IS SOMEHOW
NOT SECURITY FOR REPAYMENT OF THE LOANS

Kane borrowed \$15.1 million a mere 18 months before declaring bankruptcy, he defaulted on those loan payments within a mere several months including by illegally stopping the automatic payments from the San Jose Sharks, the loans were to be repaid through the \$29 million remaining on Kane's \$49 million contract as a professional hockey player, and now Kane contends that he does not intend to repay any of those loans and that his receivable from the San Jose Sharks is somehow not security for repayment of the loans.

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V

THE \$29 MILLION LEFT ON KANE'S CONTRACT WITH
THE SAN JOSE SHARKS IS MORE THAN SUFFICIENT TO
REPAY THE \$15.1 MILLION OF LOANS THAT KANE TOOK
OUT 18 MONTHS BEFORE DECLARING BANKRUPTCY, AND
SHOULD BE USED FOR THAT PURPOSE WITH FINANCIAL
MANAGEMENT BY A CHAPTER 11 TRUSTEE, BECAUSE
KANE OBTAINED THE LOANS AND PROMISED TO USE
THAT INCOME FOR THAT PURPOSE, WHICH NOW APPEARS
TO HAVE BEEN A FRAUDULENT PROMISE BY KANE

The \$29 million left on Kane's contract with the San Jose Sharks is more than sufficient to repay the \$15.1 million of loans that Kane took out 18 months before declaring bankruptcy, and should be used for that purpose with financial management by a Chapter 11 trustee, because Kane obtained the loans and promised to use that income for that purpose, which now appears to have been a fraudulent promise by Kane.

VI

IF THE CASE IS NOT CONVERTED TO CHAPTER 11 WITH
A CHAPTER 11 TRUSTEE TO MANAGE THE \$29 MILLION
INCOME STREAM, KANE WILL LIKELY BE SUED TO HAVE
THOSE LOANS DETERMINED TO BE NONDISCHARGEABLE

If the case is not converted to Chapter 11 with a Chapter 11 trustee to manage the \$29 million income stream, Kane will likely be sued to have those loans determined to be nondischargeable.

All of the financial institutions who are owed \$15+ million have obtained a Stipulation and Order extending the time periods

1 for them to file Adversary Proceedings and Complaints against Kane
2 to deny a discharge and to determine that the obligations owed by
3 Kane to them are nondischargeable.

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5 VII

6 KANE'S OWN ACTIONS HAVE AMPLY PROVEN THAT KANE
7 CANNOT BE TRUSTED TO MANAGE HIS \$49 MILLION
8 INCOME STREAM, AND KANE'S SKILL IS IN MAKING
9 MONEY AS A EXCEPTIONAL PROFESSIONAL HOCKEY
10 PLAYER AND NOT AT ALL AS A FINANCIAL MANAGER IN
11 MANAGING MONEY

12 Kane's own actions have amply proven that Kane cannot be
13 trusted to manage his \$49 million income stream, and Kane's skill
14 is in making money as an exceptional professional hockey player and
15 not at all as a financial manager in managing money.

16 It is not unfair or unreasonable to point out that Kane is a
17 fantastic professional hockey player and to also point out that
18 Kane is a very bad manager of money.

19 The opposition papers argue that the motion papers are "heavy
20 on snark and innuendo" [page 1, line 12] and then argue or try to
21 suggest that "snark and innuendo" do not justify the relief that
22 the creditors seek.

23 The motion to convert is not about "snark" and is not about
24 "innuendo."

25 It is not "snark" and "innuendo" to say that Kane is a
26 fantastic professional hockey player and at the same time to also
27 point out that Kane is a very bad manager of money.

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VIII

THERE WOULD NOT BE ANY SIGNIFICANT EXPENSE TO
HAVE A CHAPTER 11 TRUSTEE OVERSEE A CHAPTER 11
PLAN TO DISTRIBUTE THE \$29 MILLION GUARANTEED
RECEIVABLE OVER THE NEXT THREE YEARS TO REPAY
THE \$15.1 MILLION OF BANK LOANS FROM THE
PAYMENT BY THE SAN JOSE SHARKS OF KANE'S
GUARANTEED RECEIVABLE

There would not be any significant expense to have a Chapter 11 trustee oversee a Chapter 11 plan to distribute the \$29 million guaranteed receivable over the next three years to repay the \$15.1 million of bank loans from the payment by the San Jose Sharks of Kane's guaranteed receivable.

Kane's opposition suggests that a Chapter 11 with a Chapter 11 trustee would be very expensive.

That suggestion is not established, and the argument does not even make logical sense here.

All that is needed here is to have Kane's \$29 million receivable over the next 3 years be set up to be paid automatically from Kane's receivable from the San Jose Sharks hockey team. That is what Kane initially agreed to in the loan documents with the banks that are owed \$15.1 million plus more than a year of accrued and unpaid interest.

Kane would spend far more money litigating what are likely to be half a dozen or more Adversary Proceedings involving Complaints to Determine Dischargeability of Debt and/or to deny discharge.

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IX

CONCLUSION

The Motion to Convert and to Appoint a Chapter 11 trustee should be granted.

Dated: March 25, 2021

LAW OFFICES OF
STEPHEN G. OPPERWALL

/s/ Stephen G. Opperswall

STEPHEN G. OPPERWALL
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Professional Bank

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